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United States  
Department of Defense



U.S. Army Corps of Engineers Civil Works  
Pittsburgh District  
Recovery Act Implementation

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## Acronyms and Abbreviations

CW	Civil Works
FAR	Federal Acquisition Regulation
FBO	Federal Business Opportunities
GSA	General Services Administration
HQ	Headquarters
HUBZone	Historically Underutilized Business Zone
NEPA	National Environmental Policy Act
OMB	Office of Management and Budget
USACE	U.S. Army Corps of Engineers



INSPECTOR GENERAL  
DEPARTMENT OF DEFENSE  
400 ARMY NAVY DRIVE  
ARLINGTON, VIRGINIA 22202-4704

September 30, 2010

MEMORANDUM FOR COMMANDING GENERAL, U.S. ARMY CORPS  
OF ENGINEERS  
COMMANDER, U.S. ARMY CORPS OF ENGINEERS,  
PITTSBURGH DISTRICT

SUBJECT: U.S. Army Corps of Engineers Civil Works Pittsburgh District Recovery Act  
Implementation (Report No. D-2010-RAM-022)

We are providing this report for your information and use. We performed the audit in response to a congressional request. We considered management comments on a draft of the report in preparing the final report.

Comments on the draft of this report conformed to the requirements of DOD Directive 7650.3 and left no unresolved issues. Therefore, we do not require any additional comments.

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 601-5868.

*Patricia A. Marsh*  
Patricia A. Marsh, CPA  
Assistant Inspector General  
Defense Business Operations





# Results in Brief: Audit of the U.S. Army Corps of Engineers Civil Works Pittsburgh District Recovery Act Implementation

## What We Did

Our objective was to determine whether the U.S. Army Corps of Engineers (USACE) Civil Works (CW) implemented Public Law 111-5, "American Recovery and Reinvestment Act of 2009" (Recovery Act), February 17, 2009, in accordance with the requirements in the Recovery Act and the Office of Management and Budget Memorandum M-09-15, "Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009," April 3, 2009. Specifically, our objective was to assess the planning, funding, project execution, and tracking and reporting of Recovery Act projects to ensure USACE CW efforts facilitated accountability and transparency.

We nonstatistically selected three USACE Pittsburgh District projects for review: Emsworth Locks and Dams, Mahoning Creek Lake, and Upper Ohio Navigation Study. The three projects had several planned or already awarded contracts funded under the Recovery Act.

## What We Found

USACE complied with many of the Recovery Act requirements for the three nonstatistically selected projects. However, USACE could have improved reporting transparency and ensured that it included all required clauses in the contracts.

Specifically:

- USACE Headquarters incorrectly reported dollar values for the Emsworth project on its Web site because of human error in consolidating the numbers.

- USACE Pittsburgh did not consistently report projects on the USACE Headquarters Web site because it did not have a formal methodology in place.
- USACE Pittsburgh did not always include required Federal Acquisition Regulation clauses in the solicitation or contract because it did not have specific guidance listing the Federal Acquisition Regulations clauses required for Recovery Act contracts.

## What We Recommend

We recommend that the Commanding General, U.S. Army Corps of Engineers, Pittsburgh District:

- develop a consistent methodology for reporting its projects by each contract,
- provide training and guidance to the contracting staff that outlines the specific Recovery Act contract clauses and when they are required to be included in a solicitation or award, and
- modify the ongoing Recovery Act contracts with required Federal Acquisition Regulation clauses.

## Management Comments and Our Response

The Commander, U.S. Army Corps of Engineers, Pittsburgh District stated that they would report new Recovery Act projects by contract, continue to provide training on required clauses, and modify the ongoing Recovery Act contracts. His comments to the recommendations were responsive. Please see the recommendations table on the back of this page.



## Recommendations Table

Management	Recommendations Requiring Comment	No Additional Comments Required
Commander, U.S. Army Corps of Engineers, Pittsburgh District		1, 2, 3

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# Introduction

## Objectives

Our objective was to determine whether the U.S. Army Corps of Engineers (USACE) Civil Works (CW) implemented Public Law 111-5, “American Recovery and Reinvestment Act of 2009 (Recovery Act),” February 17, 2009, in accordance with the requirements in the Act and the Office of Management and Budget (OMB) Memorandum M-09-15, “Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009,” April 3, 2009. Specifically, our objective was to assess the planning, funding, project execution, and tracking and reporting of Recovery Act projects to ensure USACE CW efforts facilitated accountability and transparency for the three nonstatistically selected projects in the USACE CW Pittsburgh District (USACE Pittsburgh). See Appendix A for a discussion of our scope and methodology.

## Background

In passing the American Recovery and Reinvestment Act of 2009, Congress provided supplemental appropriations to preserve and create jobs; promote economic recovery; assist those most affected by the recession; provide investments to increase economic efficiency through technological advances in science and health; and invest in transportation, environmental protection, and other infrastructure. The Recovery Act also provided unprecedented efforts to ensure the responsible distribution of funds for the Act’s purposes and to provide transparency and accountability of expenditures so that the public would know how, when, and where tax dollars were spent. Further, the Recovery Act stated that the President and the heads of Federal departments and agencies were to manage and expend the funds made available in the Act to achieve its purpose, which included commencing expenditures for activities as quickly as possible, consistent with prudent management.

## USACE Recovery Act Funded Appropriations

Under the Recovery Act, Congress appropriated \$4.6 billion to USACE CW for Investigations, Construction, Operations and Maintenance, Regulatory Program, Formerly Utilized Sites Remedial Action Program, and Mississippi River and Tributaries. Table 1 provides a breakdown of the amount of Recovery Act funds provided for each appropriation.

**Table 1. USACE Recovery Act Civil Works Programs**

<b>Appropriations</b>	<b>Amount (in billions)</b>
Investigations	\$0.025
Construction	\$2.000
Operations and Maintenance	\$2.075
Regulatory Program	\$0.025
Formerly Utilized Sites Remedial Action Program	\$0.100
Mississippi River and Tributaries	\$0.375
Total: USACE Recovery Act Civil Works Programs	\$4.600

## **Nonstatistical Selection of Projects**

We nonstatistically selected three USACE Pittsburgh projects for review: Emsworth Locks and Dams, Mahoning Creek Lake, and Upper Ohio Navigation Study. See Appendix A for specific sample selection criteria. For the three projects, USACE had solicited or awarded 10 contracts funded under the Recovery Act as of August 31, 2009. We reviewed the following three projects:

- **Emsworth Locks and Dams, Ohio River, Pennsylvania:** USACE Pittsburgh personnel stated that the Emsworth Locks and Dams were originally built in the early 1900s and consisted of two dams: the Main Channel Dam and the Back Channel Dam. USACE Pittsburgh personnel will award a Recovery Act construction contract for stabilizing the Back Channel Dam abutment with Recovery Act construction appropriations.
- **Mahoning Creek Lake, Pennsylvania:** USACE Pittsburgh personnel stated that Mahoning Creek Lake is a multi-purpose reservoir that is mainly for flood reduction with some recreational use. USACE Pittsburgh personnel identified backlogged maintenance and will fund seven contracts with Recovery Act Operations and Maintenance appropriations. Specifically, USACE Pittsburgh personnel will fund contracts with Recovery Act funds for dam concrete repairs, grounds keeping and maintenance, shoreline management, replacing an access road chain link guardrail, replacing unsafe playground equipment, replacing a furnace, and re-roofing the resource manager's office.
- **Upper Ohio Navigation Study, Pennsylvania:** The Upper Ohio Navigation Study is a feasibility study to examine modernization alternatives for the three locks and dam facilities on the Ohio River in Pennsylvania to determine the most cost effective and environmentally acceptable alternative. The study includes Emsworth, Dashields, and Montgomery locks and dams. USACE Pittsburgh personnel awarded two Recovery Act contracts with Recovery Act investigation appropriations.

## **Review of Internal Controls**

We determined that internal control weaknesses existed as defined by DOD Instruction 5010.40, "Managers' Internal Control (MIC) Program Procedures," January 4, 2006. USACE Headquarters (HQ) personnel did not have controls in place to accurately report project estimates on its Recovery Act Web site. Although we identified this internal control weakness, we are not recommending corrective action because USACE HQ personnel revised the project estimates on its Recovery Act Web site on January 5, 2010. USACE Pittsburgh personnel did not have a formal methodology for reporting its projects by each contract. In addition, USACE Pittsburgh personnel did not provide training and guidance to the contracting staff outlining the specific Recovery Act contract clauses required to be included in a solicitation or award. Implementing Recommendations 1, 2, and 3 will improve reporting transparency and improve contractor accountability for all Recovery Act requirements. We will provide a copy of the report to the senior official responsible for internal controls in the U.S. Army Corps of Engineers.

## Finding. Implementation of the Recovery Act Requirements

USACE personnel complied with many of the Recovery Act requirements for the three projects.<sup>1</sup> Specifically, USACE Pittsburgh personnel properly justified the projects, met additional OMB Recovery Act requirements, distributed and appropriately designated Recovery Act funds, completed applicable environmental studies, and met the Recovery Act energy efficiency and green building requirements.

However, USACE personnel could have improved reporting transparency and ensured that they included all required clauses in contracts. Specifically, USACE HQ personnel incorrectly reported estimated dollar values for the Emsworth project on its Web site. This occurred because of human error in consolidating the numbers. USACE Pittsburgh personnel did not consistently report projects to the public on the USACE HQ Web site because USACE Pittsburgh personnel did not have a formal methodology in place. In addition, USACE Pittsburgh personnel did not always include required Federal Acquisition Regulation (FAR) clauses in the solicitation or contract because USACE Pittsburgh personnel did not have specific guidance listing the FAR clauses required for Recovery Act contracts. As a result, USACE Pittsburgh did not fully meet the transparency or solicitation and contract preparation requirements of the Recovery Act.

## Compliance with the Recovery Act

USACE Pittsburgh personnel complied with many of the Recovery Act requirements for the three projects. Specifically:

- ***Project Justification.*** USACE Pittsburgh personnel selected work for the three Recovery Act projects in accordance with OMB guidance. OMB Memorandum M-09-15, “Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009,” April 3, 2009, consistent with the President’s March 20, 2009, Memorandum, states that departments and agencies should support projects that have a demonstrated or potential ability to achieve long-term public benefits by investing in an improved quality of life, environmental protection, and other infrastructure that will provide long-term economic benefits.

USACE Pittsburgh personnel properly selected its Recovery Act projects. For example, USACE personnel classified Emsworth locks and dam system as a Dam Safety Action Class I classification, which meant it was unsafe and critically near failure. Therefore, USACE Pittsburgh personnel selected this project to achieve long-term public benefits by investing in infrastructure that will provide long-term economic benefits, improved quality of life, and support environmental protection efforts in accordance with the OMB guidance. Further, USACE Pittsburgh

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<sup>1</sup> The three projects are Emsworth Locks and Dams, Mahoning Creek Lake, and Upper Ohio Navigation Study.

personnel met the environmental protection requirements of OMB Memorandum M-09-15, section 1.6. Specifically, USACE Pittsburgh personnel used Recovery Act funds to support shoreline management work performed at Mahoning Creek Lake, which is an environmental stewardship project. USACE Pittsburgh personnel also generated the Upper Ohio Navigation Study to determine what modernization alternatives would be most environmentally acceptable for the Ohio River locks and dam facilities in Pennsylvania.

- ***Additional OMB Recovery Act Requirements.*** USACE Pittsburgh personnel planned contracting actions in accordance with additional OMB requirements. Specifically, section 6.1 of OMB Memorandum M-09-15 states that because of the critical importance of the Recovery Act and the funds it will make available to stimulate the American economy, heightened management attention on acquisition planning is required. The following details several of the additional OMB requirements and USACE Pittsburgh personnel's actions to ensure those requirements were followed. Appendix B lists the criteria tested and the results of tests.
  - Agencies should mitigate schedule, cost, and performance risk. USACE Pittsburgh personnel met this OMB requirement. Specifically, USACE Pittsburgh personnel's actions will help mitigate these risks by awarding, or intending to award, Recovery Act contracts for the three projects as firm-fixed price contracts. A fixed-price contract places upon the contractor maximum risk and full responsibility for all costs and resulting profit or loss, thereby allowing the Government to lessen its schedule, cost, and performance risks in accordance with the OMB requirement.
  - Agencies should obtain maximum practicable competition. USACE Pittsburgh personnel met this OMB requirement. Specifically, for the five new contracts we reviewed, USACE Pittsburgh personnel competed one contract and were in the process of soliciting competition for the other four contracts. In addition, the five previously awarded contracts we reviewed were all competed at the time of the award.
  - Agencies should maximize opportunities for small businesses to compete for agency contracts and to participate as subcontractors. USACE Pittsburgh personnel met this OMB requirement. Specifically, 8 of the 10 contracts we reviewed that USACE Pittsburgh personnel awarded or intend to award were set aside for small businesses or Historically Underutilized Business Zones (HUBZones).
- ***Tracking and Distribution of Recovery Act Funding.*** USACE Pittsburgh personnel distributed and appropriately designated Recovery Act funds for the applicable products and services in its accounting system as well as in the contract solicitations and awards. OMB Memorandum M-09-15, section 1.2, states that funds are to be awarded and distributed in a prompt, fair, and reasonable manner.

USACE Pittsburgh personnel complied with OMB guidance. Specifically, USACE Pittsburgh personnel stated that it received initial Recovery Act funding in May 2009 for the three projects, a few months after the Recovery Act was implemented. As described above, the contracts were either competitively awarded or were in the process of being competitively awarded at the time of our review. After initial funding, USACE Pittsburgh personnel stated they performed weekly reviews and prepared budget reports to request incremental Recovery Act funding.

OMB Memorandum M-09-15, section 4.3, states that agencies must not co-mingle Recovery Act funds with other funds. In addition, agencies must establish an internal fund code within their financial systems and separately track apportionments, allotments, obligations, and gross outlays to Recovery Act funds. USACE Pittsburgh personnel complied with this OMB requirement. Specifically, the funding amounts received for the three projects matched the Funding Authorization Documents and Work Allowances and each had a Recovery Act designation. In addition, all of the solicitations or contracts reviewed for the three projects specified which products or services were funded under the Recovery Act. These controls will help enable USACE Pittsburgh personnel to appropriately track the Recovery Act funding received through its internal funding documents and project solicitations or contracts.

- ***National Environmental Policy Act (NEPA) Requirements.*** USACE Pittsburgh personnel completed the applicable NEPA study or obtained a waiver for each project. Section 1609 of the Recovery Act states that NEPA protects public health, safety, and environmental quality by ensuring transparency, accountability, and public involvement in Federal actions and in the use of public funds. USACE Pittsburgh personnel appropriately obtained a NEPA study waiver for the Emsworth project. Specifically, it obtained a Finding of No Significant Impact that provides a summary of the environmental assessment and concludes there will not be any significant adverse impacts on the environment. The waiver met the Code of Federal Regulations, title 40, part 1508.13, requirements. A NEPA study was not conducted or required for the Mahoning Creek Lake project because the work is not considered to significantly affect the environment. In addition, for the Upper Ohio Navigation Study, USACE Pittsburgh personnel appropriately included a NEPA environmental assessment for one contract awarded under the study. The other contract awarded under this study was an environmental study, and the environment will not be changed during the study.
- ***Efficiency and Green Building Requirements.*** USACE Pittsburgh personnel met the Recovery Act energy efficiency and green building requirements. OMB Memorandum M-09-15 states that agencies should select projects invested in environmental protection that will provide long-term economic benefits. Although there are no Recovery Act-specific FAR clauses related to addressing energy efficiency and green building requirements, USACE Pittsburgh personnel included FAR clauses in some of its solicitations and contracts that addressed



OMB guidance. For example, USACE Pittsburgh personnel included FAR 52.223-14, “Toxic Chemical Release Reporting,” FAR 52.223-15, “Energy Efficiency in Energy-Consuming Products,” and FAR 52.237-2, “Protection of Government Buildings, Equipment, and Vegetation.”

## Reporting Estimated Funding Allocations on the USACE HQ Web Site

USACE HQ personnel reported unsupported funding estimates to the public on the USACE HQ Recovery Act Web site. Therefore, USACE personnel did not meet the Recovery Act transparency requirements. Specifically, the USACE HQ Web site reported unsupported estimated costs for three of the four subprojects under the Emsworth project. The Web site overestimated the Emsworth projects by \$14.4 million or 176 percent more than the actual Emsworth estimate.

USACE Pittsburgh and USACE HQ personnel agreed the estimates reported on the USACE HQ Web site were incorrect. USACE Pittsburgh personnel provided us the same documentation it submitted to USACE HQ, which supports the actual Emsworth estimates. USACE HQ personnel stated that the incorrect estimates were a result of human error in the process of consolidating the information to report it on the Web site. Table 2 lists the supported estimates provided by USACE Pittsburgh personnel along with the estimates reported on the USACE HQ Recovery Act Web site.

**Table 2. Emsworth Project Estimates**

<b>Emsworth Project</b>	<b>Estimates from Pittsburgh District</b>	<b>Estimates from USACE HQ Recovery Act Web Site</b>	<b>Unsupported Percent Increase in Estimate</b>
<b>Stabilizing one dam gate bay at the back channel dam</b>	\$ 4,000,000	\$4,000,000	0
<b>Stabilizing one dam gate bay at the back channel dam</b>	\$ 3,000,000	\$5,000,000	166
<b>Award contract to stabilize the back channel abutment and complete the service bridge</b>	\$ 5,000,000	\$7,000,000	140
<b>Stabilize two dam gate bays at the back of channel dam</b>	\$ 7,000,000	\$17,425,000	249
<b>Total</b>	<b>\$19,000,000</b>	<b>\$33,425,000</b>	<b>176</b>

USACE HQ personnel were responsible for consolidating the estimates from all of the districts and reporting them on its Web site. However, USACE HQ personnel did not accurately consolidate and report the estimates for the USACE HQ Recovery Act Web site. As a result, the Emsworth projects were overestimated, and the public was not provided with accurate information.

During the audit, we informed USACE HQ of the error; USACE HQ personnel stated they would confirm the numbers with district personnel and update the Web site accordingly. USACE HQ personnel updated Recovery Act project estimates and project descriptions on January 5, 2010, on the USACE HQ Recovery Act Web site with data provided by USACE Pittsburgh personnel. Therefore, we will not make any recommendations related to this issue.

## **Methodology for Reporting Projects on the USACE HQ Web Site**

USACE Pittsburgh personnel did not consistently report projects to the public on the USACE HQ Web site, which reduced the transparency of the projects to the public. Section 1.2 of OMB Memorandum M-09-15 requires that Federal agencies ensure that the use of all Recovery Act funds is transparent to the public. Because USACE Pittsburgh personnel did not consistently report projects, the projects were not as transparent as they could have been. For example, USACE Pittsburgh personnel provided one record for the Upper Ohio Navigation Study when it anticipated that three separate contracts would be awarded for this effort. They also provided one record for the replacement of the resource manager office's furnace and roof at Mahoning Creek Lake when they anticipated that two separate contracts would be awarded for these efforts. Conversely, USACE Pittsburgh personnel provided three records for stabilizing dam gate bays and the left abutment at Emsworth when they anticipated there would only be one contract awarded for this effort.

There is no specific formal guidance for reporting the projects and estimated dollars on the USACE HQ Web site, and USACE Pittsburgh personnel did not have a consistent methodology for reporting projects on the USACE HQ Web site. The FAR does provide special instructions to contracting officers related to the solicitation of offers and awards of contracts under the Recovery Act. Specifically, the FAR requires a clear and unambiguous description of supplies and services at the Federal Business Opportunities (FBO) Web site to support public transparency and understanding of the procurement. Because USACE Pittsburgh personnel did not use a consistent methodology for reporting projects on the USACE HQ Web site, there is no direct correlation to the solicitations announced on the FBO Web site. It could be difficult for the public and potential bidders to determine whether the projects listed on the USACE HQ Web site have been solicited and awarded if those projects do not match those announced and awarded on the FBO Web site.

USACE Pittsburgh personnel should develop a formal methodology for reporting its projects by each contract to ensure consistency and transparency to the public, as well as to potential bidders.

## **Including Required Federal Acquisition Regulation Clauses in the Solicitation or Contract**

USACE Pittsburgh personnel included required FAR clauses in the solicitations or contracts in 38 instances; however, USACE personnel did not include required FAR clauses in 10 instances as of August 31, 2009. For example, FAR 52.203-15, “Whistleblower Protection Under the American Recovery and Reinvestment Act of 2009,” was not included in one of the Mahoning Creek Lake contracts. During the audit, we informed USACE Pittsburgh personnel of the FAR clauses that were not included. USACE Pittsburgh personnel added clauses to the contract modifications in two instances; however, eight instances remain. Appendix C lists the specific FAR clauses that were or were not included.

USACE Pittsburgh personnel did not have its own guidance listing the specific FAR clauses that are required for each Recovery Act contract. Additionally, USACE Pittsburgh personnel stated that they did not include some FAR clauses because they originally thought some FAR clauses were not required because the contracts did not meet a dollar threshold. However, the FAR requires Recovery Act funded projects contain the clauses regardless of the dollar value. Our recommendation will help ensure that USACE Pittsburgh personnel include all required FAR clauses in Recovery Act contracts.

## **Recommendations, Management Comments, and Our Response**

**We recommend that the Commander, U.S. Army Corps of Engineers, Pittsburgh District:**

- 1. Develop a consistent methodology for reporting its projects by each contract to ensure consistency and transparency to the public, as well as to potential bidders.**

### ***Management Comments***

The Commander, USACE Pittsburgh District stated that it used policy and guidance published by OMB and USACE HQ when it developed the list of Recovery Act projects for the USACE HQ Web site. The published policy and guidance did not identify the requirement for a one-to-one correlation between projects listed on the USACE HQ Web site and contracts to be awarded. If USACE Pittsburgh receives additional Recovery Act projects, it will follow a consistent reporting methodology.

### ***Our Response***

The Commander, USACE Pittsburgh District, comments are responsive, and no additional comments are required. The intent to follow a consistent reporting methodology if additional Recovery Act projects are received satisfies the recommendation.

**2. Provide training and guidance to the contracting staff that outlines the specific Recovery Act contract clauses and when they are required to be included in a solicitation or award.**

### ***Management Comments***

The Commander, USACE Pittsburgh District stated that USACE Pittsburgh has trained its contracting staff on the application of the Recovery Act provisions and clauses in solicitations and contracts, and it will continue to provide training. In addition, all USACE Pittsburgh District contracting staff received copies of the Recovery Accountability and Transparency Board Contract Checklist. This checklist identifies all of the applicable Recovery Act clauses and provisions. Contract specialists and contracting officers use this checklist as a guide when preparing and reviewing solicitations and contracts.

### ***Our Response***

The Commander, USACE Pittsburgh District, comments are responsive, and no additional comments are required.

**3. Modify ongoing Recovery Act contracts so that the contracts include all required FAR clauses.**

### ***Management Comments***

The Commander, USACE Pittsburgh District stated that USACE Pittsburgh personnel have modified or are in the process of modifying several contracts to include the required FAR clauses. However, the Commander stated that USACE Pittsburgh was not required to include FAR 52.225-22 on the dam concrete repair contract; therefore, USACE Pittsburgh will not modify the contract to include that clause. The Commander stated that USACE Pittsburgh was not required to include that clause because it is applicable only to solicitations and the contract had been solicited and awarded prior to the Recovery Act.

In addition, the Commander stated that USACE Pittsburgh did not include any clauses in the playground equipment contract because it issued that order against or under a General Services Administration (GSA) contract, and the awardee's GSA contract shows that "the contractor has accepted the terms, conditions, and reporting requirements of the American Recovery and Reinvestment Act (ARRA), and is eligible to fulfill ARRA orders." Therefore, the Commander stated that they will not modify the playground equipment contract.

### ***Our Response***

The Commander, USACE Pittsburgh District comments were generally responsive, and no additional comments are required. We further reviewed FAR 52.225-22 and agree that USACE Pittsburgh was not required to include this clause in the dam concrete repair contract because the clause related to the solicitation of the contract. We have removed

this as a deficiency from the report. We also further reviewed the playground equipment contract. We continue to disagree that the FAR did not require USACE Pittsburgh to include the clauses simply because USACE Pittsburgh awarded the contract under or against a GSA contract. According to the FAR, entities are required to incorporate the four clauses, listed in Appendix C, for all contracts. The USACE Pittsburgh contract for the playground equipment did not include the clauses in the contract or adequately reference back to the GSA contract clauses. In addition, USACE Pittsburgh personnel did not have a copy of the GSA contract to ensure that GSA included all required Recovery Act clauses in the basic contract. However, the contractor has already completed this contract; therefore, we do not recommend that USACE Pittsburgh modify the contract.

## **Appendix A. Scope and Methodology**

We conducted this audit from August 2009 to June 2010 in accordance with generally accepted government auditing standards. Generally accepted government auditing standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our audit objectives.

Before selecting DOD Recovery Act projects for audit, the Quantitative Methods and Analysis Division of the DOD Office of Inspector General analyzed all DOD agency-funded projects, locations and contracting oversight organizations to assess the risk of waste, fraud, and abuse associated with each. We selected most audit projects and locations using a modified Delphi technique, which allowed us to quantify the risk based on expert auditor judgment, and other quantitatively developed risk indicators.

We used additional predictive analytic techniques for two other special cases: (1) projects performed jointly with State National Guard units in the 50 States, and (2) public works projects funded directly through USACE. We factored in workload volume, proposed costs, geographic districts, and USACE districts and regions in evaluating the relative risk of problems with oversight and completion.

We did not use classical statistical sampling techniques that would permit generalizing results to the total population because there were too many potential variables with unknown parameters at the beginning of this analysis. The predictive analytic techniques employed provided a basis for logical coverage not only of Recovery Act dollars being expended, but also of types of projects and types of locations across the Military Services, Defense agencies, State National Guard units, and public works projects managed by USACE.

We nonstatistically selected three projects from USACE Pittsburgh using the Quantitative Methods and Analysis Division high-risk rating, and we selected a project from each appropriation used (Construction, Investigations, and Operation and Maintenance). For the three projects, USACE personnel solicited or awarded 10 contracts funded under the Recovery Act as of August 31, 2009. USACE personnel also plan to award two additional Recovery Act contracts in FY 2010 under the Emsworth and Upper Ohio Navigation Study projects. These two contracts were not in the solicitation phase as of August 31, 2009; therefore, we performed limited review over the planning. We met with USACE Pittsburgh personnel to evaluate the type of work performed under the Recovery Act and how this work was funded. We reviewed funding documents that interface with the USACE Financial Management System to trace back to the initial Recovery Act funding. Further, we reviewed documentation to include solicitations, Federal procurement Web sites, bid submittals, and contracts to determine whether USACE Pittsburgh personnel are implementing the Recovery Act and OMB requirements.

## **Use of Computer-Processed Data**

We used computer-processed data obtained from the Federal Procurement Data System, Excluded Parties List System, Central Contractor Registration System, and the FBO Web site. To assess the reliability of the data, we compared USACE Pittsburgh contract information (such as contract selection criteria or description of supplies and services) to the data contained in these systems. We did not find any discrepancies between the data sets. We determined that the computer-processed data was sufficiently reliable for the purposes of this report.

We also relied on computer-processed data obtained from the Corps of Engineers Financial Management System and the P2 Oracle Financial Analyzer. To assess the reliability of the data, we compared source documentation (Funding Authorization Documents and Work Allowances we received from USACE Pittsburgh personnel) to the computer-processed data in these systems. We did not find any discrepancies between the data sets. We determined that the computer-processed data was sufficiently reliable for the purposes of this report.

## **Prior Coverage**

The Government Accountability Office, the Department of Defense Inspector General, and the Military Departments have issued reports and memoranda discussing DOD projects funded by the Recovery Act. You can access unrestricted reports at <http://www.recovery.gov/accountability>.



## Appendix B. Project Execution: Pre-award and Award

	Ems-worth	Mahoning Creek Lake						Upper Ohio Navigation Study	
	Back Channel Abutment Stabilization	Dam Concrete Repairs	Grounds Keeping/Shoreline Management	Replace Access Road Chain Link Guard Rail	Replace Unsafe Playground Equipment	Replace Furnace	Re-roof Resource Manager's Office	Batch Plant Sites Environmental Study	Riverbed Substrate Characterization
Awarded new contract	Y	N <sup>1</sup>	N <sup>1</sup>	Y	Y	Y	Y	N <sup>1</sup>	N <sup>1</sup>
Competed new contract/base contract	Y	Y	Y	Y	Y	Y	Y	Y	Y
Contract awarded at fixed price	Y	Y	Y	Y	Y	Y	Y	Y	Y
Announced award on <a href="https://www.fbo.gov">https://www.fbo.gov</a> , as applicable	Y	Y	Y	Y	Y	Y	Y	Y	Y
Verified contractor was not listed on the Excluded Parties List System	Y	Y	Y	Y	Y	Y	Y	Y	Y
Included contractor's address in the contract files	Y	Y	Y	Y	Y	Y	Y	Y	Y
Indicated which products or services are funded under the Recovery Act in the solicitation/award	Y	Y	Y	Y	Y	Y	Y	Y	Y
Set aside contract award to small business/HUBZone	N <sup>2</sup>	Y	Y	Y	Y	Y	Y	Y	N <sup>2</sup>

<sup>1</sup>Awards are based on a previously awarded contract.

<sup>2</sup>A small business/HUBZone set-aside did not apply to these contract awards.

“Y” means it occurred.

“N” means it did not occur.

## Appendix C: Solicitation/Contract FAR Clauses as of August 31, 2009

	Ems- worth	Mahoning Creek Lake						Upper Ohio Navigation Study	
FAR Clauses required for the Recovery Act	Back Channel Abutment Stabilization	Dam Concrete Repairs	Grounds Keeping/ Shoreline Management	Replace Access Road Chain Link Guard Rail	Replace Unsafe Playground Equipment	Replace Furnace	Re-roof Resource Manager's Office	Batch Plant Sites Environmental Study	Riverbed Substrate Characterization
<b>FAR 52.203-15</b> Whistleblower Protection	Y	Y	Y	Y	N	Y	Y	Y	Y
<b>FAR 52.204-11</b> Recovery Act Reporting Requirements	Y	Y	Y	Y	N	Y	Y	Y	Y
<b>FAR 52.212-4</b> Contract Terms and Conditions – Commercial Items			Y		N				
<b>FAR 52.212-5 Alt II</b> Contract Terms and Conditions Required to Implement Statutes or Executive Orders – Commercial Items			Y		N				
<b>FAR 52.214-26 Alt I</b> Audit and Records – Sealed Bidding	Y	N		N			N		
<b>FAR 52.215-2 Alt I</b> Audit and Records – Negotiation						N*		Y	Y
<b>FAR 52.222-6</b> Davis-Bacon Act	Y	Y		Y		Y	Y		
<b>FAR 52.225-21</b> Required Use of American Iron, Steel, and Manufactured Goods	Y	Y		Y			Y		
<b>FAR 52.225-22</b> Notice of Required Use of American Iron, Steel, and Manufactured Goods	Y			Y			Y		
<b>FAR 52.244-6</b> Subcontracts for Commercial Items and Commercial Components	Y	Y		Y		N*	N	Y	Y

\*We informed USACE Pittsburgh personnel of the FAR clauses that were not included. USACE Pittsburgh personnel added these clauses to the contract modifications on November 12, 2009.

“Y” means the contract or base contract appropriately included the clause.

“N” means the contract or base contract inappropriately excluded the clause.

A blank cell indicates a clause that does not apply to the contract or base contract.

# Commander, U.S. Army Corps of Engineers, Pittsburgh District Comments



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS  
441 G ST. NW  
WASHINGTON, D.C. 20314-1000

CEIR

9 August 2010

MEMORANDUM FOR Department of Defense, Office of the Inspector General,  
400 Army Navy Drive, Arlington VA 22202-4704

SUBJECT: USACE Response to OIG Draft Report - Audit of the U.S. Army Corps of  
Engineers Civil Works Pittsburgh District Recovery Act Implementation (Project No. D-  
2009-D000FH-0182.001)

1. Reference DODIG Draft Report, SAB, dated 30 June 2010.
2. HQs USACE concur with the comments provided by the Pittsburgh District.
3. For further questions or concerns, please contact the undersigned at [REDACTED]  
or email at [REDACTED]

Encl

  
BRENDA L. MAYES  
Deputy Chief  
HQUSACE Internal Review Office



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS  
PRINCIPAL ASSISTANT RESPONSIBLE FOR CONTRACTING - ATLANTA  
60 Forsyth Street, S.W., Room 10M35  
ATLANTA, GA 30303-8801


CECT-ATL

3 August 2010

MEMORANDUM FOR Commander, Pittsburgh District, US Army Corps of Engineers  
(CELRP-DE)

SUBJECT: Audit of the U.S. Army Corps of Engineers Civil Works Pittsburg district  
Recovery Act Implementation (Project No. D2010-D000FH-0182.001)

Concurrence and endorsement with the comments from Pittsburgh District to the  
recommendations in the subject audit report is provided.

  
BEVERLY Y. THOMAS  
Principal Assistant Responsible  
for Contracting - Atlanta



DEPARTMENT OF THE ARMY  
PITTSBURGH DISTRICT, CORPS OF ENGINEERS  
WILLIAM S. MOORHEAD FEDERAL BUILDING  
1000 LIBERTY AVENUE  
PITTSBURGH, PA 15222-4188

CELRP-IR (11-7)

04 AUGUST 2010

MEMORANDUM FOR Commander, U.S. Army Corps of Engineers (ATTN: CEIR), 441 G Street, NW, Washington, DC 20314-1000

SUBJECT: Audit of the U.S. Army Corps of Engineers Civil Works Pittsburgh District Recovery Act Implementation (Project No. D2009-D000FH-0182.001)

1. Reference C CEIR, Brenda Mayes, e-mail, 23 July 2010, subject as above.
2. CELRP Command Comments are enclosed. Please contact [REDACTED] Chief of Internal Review, at [REDACTED] if you have questions.

Encl

WILLIAM H. GRAHAM  
Colonel, Corps of Engineers  
Commanding

## Audit Response Format

Department of Defense Office of Inspector General  
DODIG Report Number Project No. D2009-D000FH-0182.001

The U.S. Army Corps of Engineers (USACE) Pittsburgh District, Contracting and Project Management, has reviewed the draft audit report which was provided by the Department of Defense Office of Inspector General on July 28, 2010. The purpose stated in the draft report for conducting the inspection was to determine whether the USACE, Civil Works (CW) implemented Public Law 111-5, American Recovery and Reinvestment Act of 2009 (Recovery Act) February 17, 2009, in accordance with the requirements in the Act and the Office of Management and Budget (OMB) Memorandum M-09-15, "Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009," April 3, 2009. A specific objective was to assess the planning, funding, project execution, tracking, and reporting of Recovery Act projects to ensure USACE CW efforts facilitated accountability and transparency for the judgmentally selected projects in the USACE CW Pittsburgh District (USACE Pittsburgh).

The following are our comments on the findings and recommendations contained in the report.

### **Recommendation 1:**

**Develop a consistent methodology for reporting its projects by each contract to ensure consistency and transparency to the public, as well as to potential bidders.**

During development of the list of ARRA projects for the USACE HQ website, the Pittsburgh District utilized the policy and guidance published by OMB and USACE HQ. The published policy and guidance did not identify the requirement for a one-to-one correlation between projects listed on the USACE HQ website and contracts to be awarded. All contract actions publicized on FedBizOpps clearly identified those funded with ARRA appropriations in accordance with the ARRA reporting requirements.

At this time, no additional ARRA awards are planned. However, if additional ARRA projects are received, a consistent reporting methodology will be followed.

CELRP-JR

SUBJECT: Audit of the U.S. Army Corps of Engineers Civil Works Pittsburgh District  
Recovery Act Implementation (Project No. D2009-D000FH-0182.001)

**Recommendation 2:**

**Provide training and guidance to the contracting staff that outlines the specific Recovery Act contract clauses and when they are required to be included in a solicitation of award.**

All Pittsburgh District contracting staff have been properly trained on the application of the Recovery Act provisions and clauses in solicitations and contracts. Training and guidance relating to the Recovery Act is regularly provided. Training will continue to be provided to the contracting staff in order to remain current on the dynamic ARRA requirements and ensure that the appropriate provisions and clauses are included in all ARRA funded solicitations and contracts.

In addition to training, all Pittsburgh District contracting staff have been provided copies of the Recovery Accountability and Transparency Board Contract Checklist. This checklist identifies all of the applicable Recovery Act clauses and provisions. Contract Specialists and Contracting Officers utilize this checklist as a guide when preparing and reviewing solicitations and contracts.

**Recommendation 3:**

**Modify on-going Recovery Act contracts so that the contracts include all required Federal Acquisition Regulation clauses identified in Appendix C.**

The report indicates that USACE personnel included required FAR clauses in solicitations or contracts in 38 instances; however USACE personnel did not include required FAR clauses in solicitations or contracts in 11 instances as of August 31, 2009. During the audit, USACE personnel corrected two instances by incorporating the clauses into the contract through bilateral modifications. The report indicates nine instances remaining.

USACE Pittsburgh District has reviewed the instances identified by your office and provides the following comments for each project:

**Mahoning Creek Lake**

**Dam Concrete Repairs – Contract W911WN-08-C-0009**

FAR 52.214-26 (Alt I) was identified by the audit report as being excluded from the contract. USACE Pittsburgh issued Modification P00003 on 5/22/09 to incorporate FAR 52.214-26 into



CELRP-IR

SUBJECT: Audit of the U.S. Army Corps of Engineers Civil Works Pittsburgh District  
Recovery Act Implementation (Project No. D2009-D000FH-0182.001)

the contract, however the Alt I version of the clause was inadvertently omitted. A modification is currently in process to incorporate Alt I into the contract.

FAR 52.225-22 was identified by the audit report as being excluded from the contract. 52.225-22 is a solicitation provision. Since this was an existing contract modified to exercise the remaining contract options using ARRA funds, inclusion of the provision was not required.

Replace Access Road Chain Link Guard Rail – Contract W911WN-09-C-0017

FAR 52.214-26 (Alt I) was identified by the audit report as being excluded from the contract. USACE Pittsburgh issued Modification P00001 on 11/30/09 to incorporate FAR 52.214-26 (Alt I) into the contract.

Replace Unsafe Playground Equipment – Contract W911WN-09-F-0028

Because this was an order issued against or under a GSA contract, no contract clauses were included. The awardee's GSA contract GS-07F-0452N, available online at the GSA eLibrary, has the special ARRA indicator that shows "the contractor has accepted the terms, conditions, and reporting requirements of the American Recovery and Reinvestment Act (ARRA), and is eligible to fulfill ARRA orders." Documentation of this verification is included in the contract file and is also attached to this response.

Re-Roof Resource Manager's Office – Contract W911WN-09-C-0024

FAR 52.214-26 (Alt I) was identified by the audit report as being excluded from the contract. USACE Pittsburgh issued Modification P00002 on 11/23/09 to incorporate FAR 52.214-26 into the contract, however the Alt I version of the clause was inadvertently omitted. A modification is currently in process to incorporate Alt I into the contract.

FAR 52.244-6 has been identified by the audit report as being excluded from the contract. USACE Pittsburgh issued Modification P00002 on 11/23/09 to incorporate FAR 52.244-6 into the contract.

Revised  
Pages 9 and 15







# Inspector General Department of Defense

